



6820-B3

PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

6 CFR Part 1000

[PCLOB; Docket No. 2013-0005; Sequence 2]

RIN 0311-AA02

Organization and Delegation of Powers and Duties

AGENCY: Privacy and Civil Liberties Oversight Board.

ACTION: Final rule.

SUMMARY: The Privacy and Civil Liberties Oversight Board is issuing this rule to provide information to the public about the Board's organization, function, and operations.

DATES: This rule is effective **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

FOR FURTHER INFORMATION CONTACT: Susan Reingold, Chief Administrative Officer, Privacy and Civil Liberties Oversight Board, at 202-331-1986.

SUPPLEMENTARY INFORMATION: This rule informs the public about the structure, function, and operation of the Privacy and Civil Liberties Oversight Board, as required by 5 U.S.C. 552(a)(1).

I. Background

The Privacy and Civil Liberties Oversight Board (Board) was created as an independent agency within the executive branch by the Implementing Recommendations of the 9/11 Commission Act of 2007. It has two primary purposes:

(1) To analyze and review actions the executive branch takes to protect the United States from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and (2) to ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism. This rule describes the Board's organization and functioning and, therefore, is exempt from requirements related to notice and comment under 5 U.S.C. 553(b)(3)(A).

II. Regulatory Analysis and Notices

Executive Order 12866

This rule is not a "significant regulatory action" within the meaning of Executive Order 12866.

Regulatory Flexibility Act, as Amended

The Administrative Procedure Act does not require a notice of proposed rulemaking for this rule, therefore, the provisions of the Regulatory Flexibility Act (as amended by the Small Business Regulatory Enforcement Act of 1996) do not apply.

Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 requires agencies to prepare a written statement of economic and regulatory alternatives anytime a proposed or final rule

imposes a new or additional enforceable duty on any state, local, or tribal government or the private sector that causes those entities to spend, in aggregate, \$100 million or more (adjusted for inflation) in any one year (a "federal mandate"). The Board determined that such a written statement is not required in connection with this rule because it does not impose a federal mandate.

National Environmental Policy Act

The Board analyzed this action for the purpose of the National Environmental Policy Act of 1969 and determined that it would not significantly affect the environment; therefore, an environmental impact statement is not required.

Paperwork Reduction Act

This rule does not include an information collection for purposes of the Paperwork Reduction Act of 1995.

Executive Order 13132 (Federalism)

The Board analyzed this action in accordance with Executive Order 13132 and determined that a Federalism Assessment is not necessary.

List of Subjects in 6 CFR Part 1000

Authority delegations (Government agencies),
Organization and functions (Government agencies).

In consideration of the foregoing, the Board establishes chapter X of title 6, Code of Federal Regulations, consisting of parts 1000 through 1099, to read as follows:

CHAPTER X—PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

PART 1000—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

OF THE PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

Sec.

1000.1	Purpose.
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1000.3	Organization.
1000.4	Functions.
1000.5	Delegations of authority.

Authority: 5 U.S.C. 552.

§ 1000.1 Purpose.

This part describes the organization of the Board, and the assignment of authorities and the responsibilities of the Board, individual Board members, and employees.

§ 1000.2 Definitions.

As used in this part:

Board means the Privacy and Civil Liberties Oversight Board, established by the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110-53.

Chairman means the Chairman of the Board, as appointed by the President and confirmed by the Senate under section

801(a) of the Implementing Recommendations of the 9/11 Commission Act of 2007, Pub. L. 110-53.

General Counsel means the Board's principal legal advisor.

Member means an individual appointed by the President, with the advice and consent of the Senate, to be a member of the Board.

§ 1000.3 Organization.

(a) The Board is comprised of four part-time Board members and a full-time Chairman, each appointed by the President with the advice and consent of the Senate.

(b) The Board's staff is comprised of the following administrative units:

- (1) Office of Management and Operations;
- (2) Office of the General Counsel; and
- (3) Office of Liaison and Oversight.

§ 1000.4 Functions.

(a) The Board provides advice and counsel to the President and executive departments and agencies to ensure that privacy and civil liberties are appropriately considered in proposed legislation, regulations, and policies, and in the implementation of new and existing legislation, regulations, and policies, related to efforts to protect the Nation from terrorism;

(b) The Board oversees actions by the executive branch relating to efforts to protect the Nation from terrorism to determine whether such actions appropriately protect privacy and civil liberties and are consistent with governing laws, regulations, and policies regarding privacy and civil liberties; and

(c) The Board receives and reviews reports and other information from privacy and civil liberties officers under 42 U.S.C. 2000ee-1 and, when appropriate, makes recommendations to and coordinates the activities of privacy and civil liberties officers on relevant interagency matters.

§ 1000.3 Delegations of authority.

(a) The Board. The Board is the head of the agency. The Board is responsible for the overall planning, direction, and control of the agency's agenda. The delegations of authority in this part do not extend to the following actions which are reserved to the Board:

(1) Disposition of all rulemaking and similar proceedings involving the promulgation of rules or the issuance of statements of general policy.

(2) Determination of advice or recommendations to the President or executive departments and agencies regarding the matters described in 42 U.S.C. 2000ee(d).

(3) Determination of the Board's annual agenda or other statement of operational priorities; and

(4) Redelelegation to one or more Board members or staff of those responsibilities delegated to the Chairman in § 1000.3(b), in the event of a vacancy.

(5) Any authority that is not delegated by the Board in this part, or otherwise vested in officials other than the Board, is reserved to the Board. Except as otherwise provided, the Board may exercise powers and duties delegated or assigned to individuals other than the Board.

(b) The Chairman. The Chairman is the executive and administrative head of the Board. The Chairman has the authority, duties, and responsibilities assigned to the Chairman under 42 U.S.C. 2000ee(h)(5) and (j)(1) and is responsible for the agency's day-to-day operations. The Chairman is delegated the authority to:

(1) Exercise control over the Board's management and functioning;

(2) Implement and execute the Board's budget;

(3) Develop and effectively use staff support to carry out the functions of the Board, including, but not limited to, the supervision and removal of Board employees and the assignment and distribution of work among staff;

(4) Convene and preside at all meetings of the Board and ensure that every vote and official act of the Board required by law to be recorded is accurately and promptly recorded by the General Counsel;

(5) Act as the Board's spokesman on all matters where an official expression of the Board is required, or as otherwise directed by the Board;

(6) Approve for publication all publicly issued documents, except:

(i) Those authorized by an individual Board Member;

(ii) Decisions or informal opinions of the Board; and

(iii) The semi-annual report required to be published by the Board under 42 U.S.C. 2000ee(e).

(7) Serve as the Board's Chief FOIA Officer under 5 U.S.C. 552(j).

(8) Serves as the Board's Equal Employment Opportunity Director, as described in 29 CFR Part 1614.

(9) Redelagate to one or more Board staff persons those responsibilities delegated to the Executive Director or General Counsel under this part, in the event that either position is unfilled.

(10) Authorize any officer, employee, or administrative unit of the Board to perform a function vested in, delegated, or otherwise designated to the Chairman.

(c) Executive Director. The Executive Director manages the staff and assists the Chairman with the day-to-day operation of the Board. The Executive Director is delegated authority to:

(1) Formulate and implement plans and policies designed to assure the effective administration of the Board's operations and the efficient operations of the staff;

(2) Serve as the Board's Senior Agency Official for Privacy;

(3) Administer the Board's programs under the Freedom of Information Act, 5 U.S.C. 552, and the Privacy Act of 1974, 5 U.S.C. 552a.; and

(4) Authorize any officer or employee of the Board to perform a function vested in, delegated, or otherwise designated to the Executive Director.

(d) General Counsel. The General Counsel is the Board's chief legal officer, and serves as legal advisor to the Board. The General Counsel is delegated authority to:

(1) Serve as the Board's Designated Ethics Official in accordance with 5 CFR 2638.202;

(2) Certify Board votes consistent with Board policies and procedures; and

(3) Authorize any officer or employee of the Board to perform a function vested in, delegated, or otherwise designated to the General Counsel.

(e) Individual Board Members. Any member delegated authority vested in the Chairman under paragraph (a) of this section may redelegate that authority to one or more Board employees.

(f) Exercise of authority. In carrying out any functions delegated under this part, members and staff are governed in the exercise of those functions by all applicable Federal statutes and regulations, and by the regulations, orders, and rules of the Board.

PARTS 1001 - 1099 [RESERVED]

Dated: May 29, 2013

Claire McKenna,
Legal Counsel.

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